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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91217656
Party	Defendant Salt Armour, Inc.
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Date	09/23/2014
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

UNDER ARMOUR, INC.,

Opposition No.: 91217656

Opposer,

Application No.: 86187021

v.

Mark: SALT ARMOUR

Filing Date: February 6, 2014

SALT ARMOUR, INC.,

Application No.: 86262258

Applicant.

Mark: DEFENSE ARMOUR

Filing Date: April 26, 2014

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**ANSWER AND AFFIRMATIVE DEFENSES**

Applicant, SALT ARMOUR, INC., by and through the undersigned counsel, and files this, it's Answer and Affirmative Defenses to the Consolidated Notice of Opposition by the Opposer, UNDER ARMOUR, INC., and states as Responses to the enumerated allegations:

1. The Applicant denies the allegations contained in Paragraph 1 of the Consolidated Notice of Opposition ("NOO"), except to the extent that Applicant admits that there is a civil action purporting to allege allegations concerning Trademark Infringement.
2. Applicant is without knowledge sufficient to form a belief as to the allegations contained in Paragraph 2 of the NOO.
3. Applicant is without knowledge sufficient to form a belief as to the allegations contained in Paragraph 3 of the NOO.
4. Applicant is without knowledge sufficient to form a belief as to the allegations contained in Paragraph 4 of the NOO.
5. Applicant is without knowledge sufficient to form a belief as to the allegations contained in Paragraph 5 of the NOO.
6. Applicant is without knowledge sufficient to form a belief as to the allegations contained in Paragraph 6 of the NOO.
7. Applicant is without knowledge sufficient to form a belief as to the allegations contained in Paragraph 7 of the NOO.
8. Applicant is without knowledge sufficient to form a belief as to the allegations contained in Paragraph 8 of the NOO.

9. Applicant is without knowledge sufficient to form a belief as to the allegations contained in Paragraph 9 of the NOO.
10. Applicant is without knowledge sufficient to form a belief as to the allegations contained in Paragraph 10 of the NOO.
11. Applicant is without knowledge sufficient to form a belief as to the allegations contained in Paragraph 11 of the NOO.
12. Applicant is without knowledge sufficient to form a belief as to the allegations contained in Paragraph 12 of the NOO.
13. Applicant is without knowledge sufficient to form a belief as to the allegations contained in Paragraph 13 of the NOO.
14. Applicant is without knowledge sufficient to form a belief as to the allegations contained in Paragraph 14 of the NOO.
15. Applicant is without knowledge sufficient to form a belief as to the allegations contained in Paragraph 15 of the NOO.
16. Applicant is without knowledge sufficient to form a belief as to the allegations contained in Paragraph 16 of the NOO.
17. Applicant is without knowledge sufficient to form a belief as to the allegations contained in Paragraph 17 of the NOO.
18. Applicant is without knowledge sufficient to form a belief as to the allegations contained in Paragraph 18 of the NOO.
19. Applicant is without knowledge sufficient to form a belief as to the allegations contained in Paragraph 19 of the NOO.
20. Applicant is without knowledge sufficient to form a belief as to the allegations contained in Paragraph 20 of the NOO.
21. Applicant is without knowledge sufficient to form a belief as to the allegations contained in Paragraph 21 of the NOO.
22. Applicant admits the allegation contained in Paragraph 22 of the NOO.
23. Applicant admits the allegation contained in Paragraph 23 of the NOO.
24. Applicant admits the allegation contained in Paragraph 24 of the NOO.
25. Applicant repeats and re-alleges each and every response set forth in Paragraphs 1-24.

26. Applicant is without knowledge sufficient to form a belief as to the allegations contained in Paragraph 26 of the NOO.
27. Applicant denies the allegation contained in Paragraph 27 of the NOO.
28. Applicant repeats and re-alleges each and every response set forth in Paragraphs 1-27.
29. Applicant denies the allegation contained in Paragraph 29 of the NOO.
30. Applicant denies the allegation contained in Paragraph 30 of the NOO.
31. Applicant denies the allegation contained in Paragraph 31 of the NOO.
32. Each and every allegation to which the Applicant is without knowledge, the Applicant denies same and demands strict proof thereof.
33. Except as expressly stated above, the Applicant denies each and every allegation contained in the NOO.

### **AFFIRMATIVE DEFENSES**

#### **First Affirmative Defense**

1. As a First and singular Affirmative Defense the Applicant claims that Under Armour's claims are barred, in whole or in part, by the Equitable Doctrines of Estoppel Latches and/or Waiver.

#### **Second Affirmative Defense**

2. As a Second and singular Affirmative Defense the Applicant alleges that the word "Armour" is no longer an original phrase in the marketplace to which the consumer can be confused. Moreover, as the marketplace is now crowded with other entities and products utilizing the word "Armor" or "Armour," that there can no longer be dilution. A few examples of the dozens of other "Armor" or "Armour" based marks include, but are not limited to, "Armour" for food: "Tommy Armour" for golf equipment and clothing; "Golden Armor" for apparel; "Woody Armor" for footwear; "Optical Armor" for clothing; "Air Armor" for vitamin supplements; "Weather Armor" for footwear; "Armourshield" for clothing; "Body Armour" for clothing;

“Liquid Armour” for beverages, (of which based on knowledge and belief the Opposer entered into a co-existing agreement).

3. Applicant reserves the right to assert additional Affirmative Defenses based upon further discovery.

Applicant respectfully requests that the Court enter a Judgment in its favor each and every claim for relief set forth in the NOO and award Applicant all of its litigations expenses including it’s reasonable attorney fees and court costs in this action, and other such relief that this Court may deem appropriate

*Respectfully submitted,*

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By: /s/ Kraig S. Weiss  
Paul K. Silverberg, Esq.  
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Kraig S. Weiss, Esq.  
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### **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Answer and Affirmative Defenses to Respond to Opposer’s Consolidated Notice of Opposition has been served on Douglas A. Rettew, Esq., by mailing a copy on September 23, 2014, via First Class Mail, postage prepaid to Douglas A. Rettew, Esq., Finnegan, Henderson, Farabow, Garrett & Dunner,

LLP, 901 New York Avenue, N.W., Washington, D.C. 20001-4413 and email to [Doug.Rettew@finnegan.com](mailto:Doug.Rettew@finnegan.com) and [joyce.delaney@finnegan.com](mailto:joyce.delaney@finnegan.com).

By: /s/ Kraig S. Weiss  
Kraig S. Weiss, Esq.

Date: September 23, 2014